

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		<b>FOR FURTHER ACTION</b> See paragraph 2 below
International application No. PCT/EP2004/013783	International filing date (day/month/year) 03.12.2004	Priority date (day/month/year) 04.12.2003
International Patent Classification (IPC) or both national classification and IPC G01M11/02, G01N21/896		
Applicant NOVARTIS AG		

### 1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - a sequence listing
    - table(s) related to the sequence listing
  - b. format of material:
    - in written format
    - in computer readable form
  - c. time of filing/furnishing:
    - contained in the international application as filed.
    - filed together with the international application in computer readable form.
    - furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2004/013783

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or  
industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)                    Yes: Claims    1-4  
                                  No: Claims

Inventive step (IS)            Yes: Claims  
                                  No: Claims    1-4

Industrial applicability (IA)    Yes: Claims    1-4  
                                  No: Claims

2. Citations and explanations

**see separate sheet**

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

**1 STATE OF THE ART**

Reference is made to the following documents:

D1: EP-A-1 248 092 (NOVARTIS AG; NOVARTIS PHARMA GMBH) 9 October 2002  
(2002-10-09)

D2: US-A-6 047 082 (RHODY ET AL) 4 April 2000 (2000-04-04)

**2 INDEPENDENT CLAIMS**

**2.1 NOVELTY (Article 33(1) and (2) PCT)**

The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and shows:

The use of a dark-field inspection unit for automatic inspection of a transparent contact lens.

The subject-matter of claim 1 differs from this known use in that the contact lens to be inspected is tinted.

The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

**2.2 INVENTIVE STEP (Article 33(1) and (3) PCT)**

The problem to be solved by the present invention may be regarded as extending the use of a dark-field inspection system to all types of contact lenses brought into play in the contact lens manufacturing industry in order to reduce the cost of equipments as regards quality control.

The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons.

D2 shows that tinted contact lenses are commonly fabricated and subjected to automatic inspection in the contact lens manufacturing industry.

The skilled person having the task of solving the proposed problem would therefore regard

it as a normal option to extend the use of a dark-field inspection system to tinted contact lenses.

**3 DEPENDENT CLAIMS**

Dependent claims 2-4 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step. The reasons are the following:

The features of claims 2 and 3 are disclosed in D1 (see paragraphs 6 and 13).

The skilled person facing the problem proposed in section 2.2 would regard it as a normal option to also extend the use of a dark-field inspection system to opaque tinted contact lenses. Therefore the subject-matter of claim 4 does not involve an inventive step.